

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 8
 1595 WYNKOOP STREET
 DENVER, COLORADO 80202-1129

AUTHORIZATION TO DISCHARGE UNDER THE
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq; "the Act"), except as provided in Part 5 of this permit, operators of wastewater treatment lagoons located in the following areas:

this permit covers the Cheyenne River Reservation; Crow Creek Reservation; the Flandreau Santee Sioux Indian Reservation; the Lower Brule Reservation; the Pine Ridge Reservation (including the entire Reservation, which is located in both South Dakota and Nebraska); the Rosebud Indian Reservation; the Yankton Sioux Reservation; any land within the State of South Dakota held in trust by the United States for an Indian tribe; and any other areas within the State of South Dakota which are Indian country within the meaning of 18 U.S.C. § 1151. This permit includes any land in the State of North Dakota that is held in trust by the United States for the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation or any other Indian country associated with that Tribe. It does not include the Standing Rock Sioux Reservation or any associated Indian country, which is covered under general permit NDG589###..,

are authorized to discharge at locations within the above described areas to waters of the United States, in accordance with the effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective **May 19, 2011**.

This permit and the authorization to discharge shall expire at midnight, **September 14, 2015**.

Signed this 1st day of September, 2010

Original Signed By:

Authorized Permitting Official

Stephen S. Tuber, Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

**COMPLAINANT'S
 EXHIBIT NO. /**

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1. COVERAGE UNDER THIS PERMIT

- 1.1. Introduction: This general permit is intended for the permitting of wastewater lagoon systems that treat mostly domestic sewage and are located within the boundaries of the specified Indian Reservations or otherwise in Indian country as defined in Section 9 of this permit. Authorization for coverage under this permit will be limited to one of the following three categories of wastewater lagoon systems and will be determined by the permit issuing authority:

Category 1 - No prior notification is required before starting to discharge;

Category 2 - Prior notification is required before starting to discharge; or

Category 3 - The lagoon system is required to have no discharge.

The basic requirements for each of the three categories are specified in Parts 3, 4, and 5, respectively, of the permit. If additional water quality-based effluent limitations are necessary to comply with applicable water quality standards, those requirements will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

- 1.2. Permit Area: This general permit covers the areas specified on the cover page of this permit.

1.3. Eligibility:

- 1.3.1. This permit provides coverage for wastewater lagoon systems treating mainly domestic sewage. The wastewater lagoon system may not receive any significant industrial discharge contributions. The permit issuing authority has the final determination as to whether any non-domestic wastewater is considered a significant industrial discharge contribution.
- 1.3.2. Wastewater lagoon systems listed in Appendix A of the Fact Sheet and complete retention wastewater lagoon systems not listed in Appendix A of the Fact Sheet that meet the requirements specified in Part 5 of this permit may seek coverage under this permit. All other wastewater lagoon systems must apply for coverage under an individual permit.
- 1.3.3. Limitations on Coverage: Wastewater lagoon systems that have been issued an individual permit or required to obtain coverage under an alternative general permit in accordance with Part 8.17 are not authorized by this permit.
- 1.3.4. A wastewater lagoon system that has an individual permit, other than an individual permit required under Part 8.17, and that is listed in Appendix A of the Fact Sheet may request that the individual permit be revoked, and that it be covered by this general permit. Upon submittal of the necessary notice of intent information and revocation of the individual permit, this general permit shall apply to the wastewater lagoon system.

1.3.5. Historic Properties

You are reminded that you must comply with applicable laws concerning the protection of historic properties and places.

1.4. Obtaining Authorization:

- 1.4.1. In order for a discharge from an eligible wastewater lagoon system to be authorized to discharge under this general permit:

- 1.4.1.1. The operator of the lagoon system must submit a complete Notice of Intent (NOI) in accordance with the requirements of Part 2 and the operator receives a written notice of authorization from the permit issuing authority;
- 1.4.1.2. The Director may notify the operator of a wastewater lagoon system that it is covered by this general permit even if the operator has not submitted a notice of intent to be covered by the general permit.

The Director may withhold its notification of coverage and instead require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

2. NOTICE OF INTENT REQUIREMENTS

2.1. Deadlines for Submitting a Notice of Intent:

- 2.1.1. Facilities that had coverage under the previous general permit that this permit replaces are required to submit a complete NOI within 90 days after the effective date of this permit if they want to maintain coverage under the general permit.
- 2.1.2. Facilities that did not have coverage under the previous general permit that this permit replaces must submit a complete NOI at least thirty (30) days before:
 - 2.1.2.1. The expected start of discharge from the wastewater lagoon system; or,
 - 2.1.2.2. The date when the operator wants authorization to begin.

2.2. Contents of The Notice of Intent: The Notice of Intent to be authorized to discharge under the provisions of this permit shall be submitted in letter format and include the information listed below:

- 2.2.1. Facility's official or legal name.
- 2.2.2. Legal name, mailing address, and phone number of the owner of the facility.
- 2.2.3. Name, mailing address and phone number of the organization or entity that operates the facility, if different from owner.
- 2.2.4. Name, title, and work phone number of the contact person for the facility. This should be a person that is familiar with the day-to-day operation of the facility.
- 2.2.5. Location of facility: Give section (to nearest quarter section) township, and range (e.g., NW 1/4 sec.5, T.33 N., R.9 W.); latitude and longitude to the nearest 15 seconds; and, if applicable, the street address, city, and county.
- 2.2.6. Is the discharge from this facility located in Indian country?
- 2.2.7. Is the facility tribally owned and/or operated?
- 2.2.8. Does this facility have or did it previously have an individual NPDES permit? If yes, give the number of the permit and the status of the permit.
- 2.2.9. Name of the waterway that will receive the discharge from the lagoon system. If the name of the waterway is unknown, give the name of the first downstream waterway (stream or lake) that the name is known (e.g., unnamed tributary of Rock Creek).
- 2.2.10. For each discharge point from which the facility has either an existing or potential release of treated or untreated wastewater, assign an outfall number (e.g., 001, 002, 003, etc.) and provide a brief description of the discharge point (e.g., 001, outlet from cell number 3; 002, overflow structure on cell no. 2; 003, bypass structure at headworks of lagoon system, etc.). **Include intermittent or non-continuous overflows, bypasses or seasonal discharges.** Include latitude and longitude to the nearest 15 seconds for each outfall. If outfall numbers have been assigned on a previous permit application for this facility, the same designation shall be used.

- 2.2.11. A map and/or diagram showing the location of the lagoon system, existing or potential discharge points, and the receiving waterway. Label discharge points by outfall number. All maps and diagrams are to be on 8 ½" by 11" paper. It is acceptable to use a photocopy of the appropriate part of a 7 ½ minute USGS quadrangle map with the necessary information added as appropriate, or aerial internet images.
- 2.2.12. Provide the following plant design and treatment data:
 - 2.2.12.1. Give the year the lagoon system was originally constructed and the year(s) of any additions or modifications;
 - 2.2.12.2. A line drawing (flow diagram) of the current treatment system. Show all treatment units and existing or potential discharge points. Label the discharge points with outfall numbers;
 - 2.2.12.3. A brief description of the types of treatment units employed by the facility;
 - 2.2.12.4. For each cell of the lagoon system, give the surface area (in acres or square feet) and the capacity (in million gallons);
 - 2.2.12.5. The average and peak design flow (mgd);
 - 2.2.12.6. The average and peak design organic treatment capacity (pounds of BOD5 per day or design population);
 - 2.2.12.7. Has sludge ever been removed from the lagoon system? If yes, give the years when it was dredged and the approximate quantity removed.
 - 2.2.12.8. The name of the nearest waterbody downgradient from the lagoon and the approximate distance from the lagoon to the waterbody.
 - 2.2.12.9. The depth, in feet, from the bottom of the lagoon to the annual high groundwater level below the lagoon.
- 2.2.13. List any changes or improvements to the facility, either currently underway or anticipated over the next five (5) years, which will affect the quality of the discharge. Provide a narrative description of each improvement.
- 2.2.14. For each item identified in number 12 above, provide projected dates, as accurately as possible, for completion of each step listed below:
 - 2.2.14.1. Beginning Construction Date: _____
 - 2.2.14.2. Ending Construction Date: _____
 - 2.2.14.3. Beginning Discharge Date: _____
 - 2.2.14.4. Operational Level Attained: _____
- 2.2.15. What is the total estimated average daily waste inflow, in mgd, from all non-domestic industrial sources?

2.2.16. Manufacturing and Industrial Operations:

2.2.16.1 Check any facility in the service area of your treatment plant.

- | | |
|--|--|
| <input type="checkbox"/> Beverage Manufacturing | <input type="checkbox"/> Metal Finishing |
| <input type="checkbox"/> Concrete Ready-Mix | <input type="checkbox"/> Metal Molding & Casting (Foundry) |
| <input type="checkbox"/> Dairy Products | <input type="checkbox"/> Oil & Gas Extraction |
| <input type="checkbox"/> Electroplating | <input type="checkbox"/> Petroleum Refining |
| <input type="checkbox"/> Hospitals | <input type="checkbox"/> Transportation Equipment Cleaning |
| <input type="checkbox"/> Leather Tanning & Finishing | <input type="checkbox"/> Waste Treatment |
| <input type="checkbox"/> Meat Products | <input type="checkbox"/> Other, (Describe) _____ |

2.2.17. Trucked-in Wastes:

- 2.2.17.1. Does the treatment system receive any trucked-in wastes, including septage haulers? If yes, describe the kinds of waste received and if any such waste is subject to any other state, local or federal regulations. How many days per month is septage dumped, from how many septic companies?
- 2.2.17.2. Does the facility have a dedicated trucked waste discharge location? If no, where is the trucked waste discharged into the municipal facility?
- 2.2.18. List the name and actual (or, if unavailable, estimated) population for each municipality, quasi-municipality, or unincorporated area served. Information can be gathered from census data or internet queries (list source of data).
- 2.2.19. List any discharge sample analyses (e.g., BOD₅, total suspended solids, and fecal Coliforms) which are routinely performed by a contract laboratory or consulting firm. For each pollutant listed, give the name, mailing address, and telephone number of the contract laboratory or consulting firm doing the analysis.
- 2.2.20. Is a contractor responsible for any operational or maintenance aspects of your facility? If yes, give the name, mailing address, and telephone number of the contractor and describe the contractor's responsibilities.
- 2.2.21. Specify which of the following categories of operational requirements that you wish to be authorized for coverage under this permit:
- 2.2.21.1. No prior notification is required before starting to discharge (Category 1);
(Typically for continuous dischargers)
- 2.2.21.2. Prior notification is required before starting to discharge (Category 2); or
(Typically for seasonal dischargers)
- 2.2.21.3. The lagoon system is required to have no discharge (Category 3).
(Limited to complete retention lagoons that do not discharge)

The category of operational requirements authorized for the lagoon system will be specified by EPA in the letter authorizing coverage under this permit. The category of operational requirements approved by EPA may be different from that requested in the Notice of Intent.

- 2.2.22. Identify all plant or animal species listed on the Federal or applicable state list of endangered or threatened species or a specific critical habitat of an endangered or threatened species in your county. This information can be gathered by contacting your local Fish and Wildlife office, or by searching the FWS website at:

<http://www.fws.gov/mountain-prairie/endspp/>

- 2.2.23. Will the proposed action by the applicant affect properties listed, or eligible for listing, on the National Register of Historic Places? (Buildings, archaeological sites, National Historic Landmarks; objects of significance to a Tribe including graves, funerary objects, and traditional cultural properties). If yes, provide specific details. This information can be gathered by contacting your local Tribal Historical Preservation Officer. Also provide the name, the work telephone number, and work address of the person contacted for the information.
- 2.2.24. Report the results of any monitoring of discharges that occurred during the past three (3) years. Include the dates and location of any samples that were taken.
- 2.2.25. The Notice of Intent must be submitted by the organization or entity that has the legal responsibility for operating the wastewater lagoon system, shall be signed in accordance with the requirements of Part 8.7, and the person signing the Notice of Intent shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Typed or Printed Name:

Signature _____ Date

Title:

Upon review of the NOI, the Director may request additional information. **Authorization to discharge under this permit does not begin until the operator receives written authorization from the Director.**

2.3. Where to Submit Notice of Intent

The completed NOI must be submitted to the following address:

U.S. EPA, Region 8
Wastewater Unit (8P-W-WW)
1595 Wynkoop Street
Denver, CO 80202-1129

A copy of the completed NOI shall be submitted to the applicable Tribe (see Part 11 for list of Tribes.)

3. CATEGORY 1 - NO PRIOR NOTIFICATION REQUIRED BEFORE STARTING TO DISCHARGE

3.1. Effluent Limitations: Effective immediately and lasting through the life of this permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation <u>d/</u>		
	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
BOD ₅ , mg/L	30	45	N/A
Total Suspended Solids, mg/L <u>b/</u>	30 <u>b/</u>	45 <u>b/</u>	N/A
The pH of the effluent shall not be less than 6.0 or greater than 9.0 in any single sample or analysis. <u>c/</u>			
The concentration of oil and grease in any single sample shall not exceed 10 mg/L nor shall there be any visible sheen in the receiving water or adjoining shoreline.			

a/ See Definitions, Part 9, for definition of terms.

b/ The Secondary Treatment Regulation (40 CFR Part 133) provides for higher effluent limitations for total suspended solids for waste stabilization ponds provided that: (1) Waste stabilization ponds are the principal process used for secondary treatment; (2) The operation and maintenance data indicate that the above effluent limitations on total suspended solids cannot be achieved; and, (3) The above effluent limitations on BOD₅ are being met.

The permit issuing authority may change the effluent limitations on total suspended solids to the higher limitations without going to public notice upon demonstration of the above criteria. If a facility had the higher effluent limitations on total suspended solids in the previous permit, the permit issuing authority may assign those effluent limitations to that facility effective upon authorization of coverage under this permit.

c/ The Secondary Treatment Regulation (40 CFR § 133.102(c)) has provisions for pH limitations outside the range of 6.0 -9.0 where it can be demonstrated that: (1) Inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0. The permit issuing authority may change the effluent limitations on pH to outside the range of 6.0 - 9.0 without going to public notice upon demonstration of the above criteria.

d/ Additional water quality-based effluent limitations, where necessary to ensure compliance with applicable water quality standards, will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

3.2. Self-Monitoring Requirements: At a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred. Where additional monitoring requirements or additional water quality-based effluent limitations necessary to ensure that the discharge will not violate applicable water quality standards have been imposed, they will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

Effluent Characteristic	Frequency	Sample Type a/
Flow, MGD b/	Weekly	Instantaneous
BOD5, mg/L	Monthly	Grab
Total Suspended Solids, mg/L	Monthly	Grab
pH, standard units	Weekly	Instantaneous or Grab
Oil and Grease, Visual Observation	Weekly	Observation
Oil and Grease, mg/L c/	c/	Grab

a/ See Definitions, Part 9, for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in gallons per day) during the reporting period and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported.

c/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be taken immediately and analyzed in accordance with the requirements of 40 CFR Part 136. If no grab sample was taken during the reporting period because no visible sheen was observed, enter "No grab sample required this reporting period." or something similar on the appropriate line of the discharge monitoring report form.

3.3. Inspection Requirements

3.3.1. On at least a **weekly** basis, unless otherwise approved by the permit issuing authority, the permittee shall inspect its wastewater treatment facility, at a minimum, for the following:

- 3.3.1.1. Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. (Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Parts 3.2 and 6.4.1 of this permit if not already done.);
- 3.3.1.2. Check to see if there is any leakage through the dikes;
- 3.3.1.3. Check to see if there are any animal burrows in the dike;
- 3.3.1.4. Check to see if there has been any excessive erosion of the dikes;
- 3.3.1.5. Check to see if there are any rooted plants, including weeds growing in the water; and
- 3.3.1.6. Check to see if vegetation growth on the dikes needs mowing.
- 3.3.1.7. Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.

3.3.2. The permittee shall maintain a **bound notebook** recording information obtained during the inspection. At a minimum, the notebook shall include the following:

- 3.3.2.1. Date and time of the inspection;
- 3.3.2.2. Name of the inspector(s);
- 3.3.2.3. The facility's discharge status;
- 3.3.2.4. The flow rate of the discharge if occurring;
- 3.3.2.5. Identification of operational problems and/or maintenance problems;
- 3.3.2.6. Recommendations, as appropriate, to remedy identified problems;
- 3.3.2.7. A brief description of any actions taken with regard to problems identified; and,
- 3.3.2.8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe.

- 3.3.3. Problems identified during the inspection shall be addressed through proper operation and maintenance. (See Part 7.5 of this permit.)
- 3.4. Land Application of Wastewater: This permit does not authorize the discharge of wastewater from land application sites. Any land application of wastewater from the wastewater lagoon system shall be done in such a manner as to prevent runoff of wastewater from the land application site from reaching waters of the United States. If the permittee land applies wastewater, it shall be done in accordance with a written operational plan for the land application of the wastewater. If the permittee is already land applying wastewater when this permit is issued, the operational plan shall be prepared within ninety (90) days after the effective date of this permit or prior to the next land application of wastewater, whichever occurs later. If the permittee is not land applying wastewater when the permittee obtains coverage under this general permit, the operational plan shall be prepared prior to land applying wastewater. A copy of the plan shall be kept at the office of the facility and be made available for inspection by authorized representatives of EPA or the applicable Tribe. For each land application site the plan shall include the following:
 - 3.4.1. Identification of the land application site:
 - 3.4.1.1. A topographic map showing the location of the land application site and the surrounding area up to one mile beyond the boundary of the site and the location of the wastewater lagoon system. Also show all springs and surface water bodies within 1 mile of the site boundary, plus all drinking water wells within 1/4 mile of the site boundary which are identified in the public record or otherwise known to you. A photocopy of the appropriate portion of a USGS topographic map(s) may be used, with the locations of the land application site(s), the wastewater lagoon system, and drinking water wells marked on the map.
 - 3.4.1.2. The section, township, and range of the land application site (e.g., South 1/2 NW 1/4 S/E 1/4 Sec. 5, T 7S, R 6E).
 - 3.4.1.3. The area of the land application site in acres.
 - 3.4.1.4. The depth, in feet, to the annual high groundwater level below the land application site. If the distance is shorter in one part of the site than in another part, use the shortest distance.
 - 3.4.2. Use of the land application site: Describe briefly the uses of the site (e.g., crop land, pasture land, range land, etc.) and the types of vegetation grown on the site.
 - 3.4.3. A brief description of how the wastewater will be conveyed to the site and any on-site storage that will be provided.

- 3.4.4. A brief description of how the wastewater will be land applied and the types of equipment that will be used.
- 3.4.5. A nutrient management plan to ensure that excessive amounts of nitrogen and phosphorus are not applied to the land. The nutrient management plan may be based on guidance provided by the local office of the U.S. Department of Agriculture's Natural Resource Conservation Service, the State's agricultural extension service, the latest edition of EPA's Process Design Manual - Land Treatment of Municipal Wastewater Effluents (EPA 625/R-06/016), or similar references or sources of information.
- 3.4.6. List the months when land application is planned to occur.
- 3.4.7. The planned application rates in terms of gallons per acre per application.
- 3.4.8. The planned length of time that wastewater will be applied per application (e.g., 4 hours per sprinkler setting, etc.)
- 3.4.9. The planned frequency of application (e.g., twice monthly).
- 3.4.10. The planned amount of time between applications (e.g., two weeks).
- 3.4.11. Runoff controls: Provide a brief description of all physical control measures that will be provided to minimize the potential for wastewater to flow off the land application site.
- 3.4.12. Written instructions for the person(s) doing the land application. The instructions shall include the following:
 - 3.4.12.1. Specific information on the amounts of wastewater to be land applied per application, rates of application, duration of application, and length of time between applications.
 - 3.4.12.2. Preventive measures to be taken to minimize the potential for the runoff of wastewater to occur from the site.
 - 3.4.12.3. Action to be taken if runoff of wastewater from the site occurs.
- 3.4.13. A listing of people and agencies to be called in the event that there is a discharge of wastewater from the land application site. The list shall include the appropriate telephone numbers for the people and agencies.

4. CATEGORY 2 - PRIOR NOTIFICATION REQUIRED BEFORE STARTING TO DISCHARGE

4.1. Effluent Limitations: Effective immediately and lasting through the life of this permit, the quality of effluent discharged by the facility shall, at a minimum, meet the limitations as set forth below:

Effluent Characteristic	Effluent Limitation <u>d/</u>		
	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
BOD ₅ , mg/L	30	45	N/A
Total Suspended Solids, mg/L <u>b/</u>	30 <u>b/</u>	45 <u>b/</u>	N/A
The pH of the effluent shall not be less than 6.0 or greater than 9.0 in any single sample or analysis, <u>c/</u>			
The concentration of oil and grease in any single sample shall not exceed 10 mg/L nor shall there be any visible sheen in the receiving water or adjoining shoreline.			

a/ See Definitions, Part 9, for definition of terms.

b/ The Secondary Treatment Regulation (40 CFR Part 133) provides for higher effluent limitations for total suspended solids for waste stabilization ponds provided that: (1) Waste stabilization ponds are the principal process used for secondary treatment; (2) The operation and maintenance data indicate that the above effluent limitations on total suspended solids cannot be achieved; and, (3) The above effluent limitations on BOD₅ are being met.

The permit issuing authority may change the effluent limitations on total suspended solids to the higher limitations without going to public notice upon demonstration of the above criteria. If a facility had the higher effluent limitations on total suspended solids in the previous permit, the permit issuing authority may assign those effluent limitations to that facility effective upon authorization of coverage under this permit.

c/ The Secondary Treatment Regulation (40 CFR § 133.102(c)) has provisions for pH limitations outside the range of 6.0 -9.0 where it can be demonstrated that: (1) Inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0. The permit issuing authority may change the effluent limitations on pH to outside the range of 6.0 - 9.0 without going to public notice upon demonstration of the above criteria.

d/ Additional water quality-based effluent limitations, where necessary to ensure compliance with applicable water quality standards, will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

4.2. Self-Monitoring Requirements

4.2.1. Applicable when the permittee is notifying EPA prior to discharge. Prior to the start of any discharge from the treatment system, the permittee shall collect a grab sample between the hours of 11:00 a.m. and 4:00 p.m. from each treatment unit from which it is desired to discharge the water and have the sample analyzed for the following constituents:

- BOD₅, mg/L
- Total Suspended Solids, mg/L
- pH, s.u.

The results of the analyses, along with a complete notification of discharge, shall be provided to the permit issuing authority at the following address unless notified otherwise:

U.S. EPA, Region 8
NPDES Enforcement Unit (8ENF-W-NP)
Attention: NPDES Unit Chief
1595 Wynkoop Street
Denver, CO 80202-1129

A notification of discharge shall explain why a discharge is needed, when the discharge would start, the expected duration of the discharge, the outfall(s) from which the discharge will occur, the lagoon cell(s) that will be drawn down, and the approximate volume of water to be discharged. The estimated flow condition of the receiving water shall also be reported (i.e., dry, low, normal, high). No discharge shall occur until EPA has acknowledged in writing its receipt of a complete notification of discharge. Such acknowledgement does not release the facility from liability should effluent violations occur. Failure to comply with the notification requirements of this section is a violation of this permit.

- 4.2.2. Applicable when a discharge is occurring. During periods of discharge, the permittee shall, at a minimum, monitor the discharge for the constituents listed below at the frequencies and with the types of samples indicated. The sample and measurements shall be representative of the volume and nature of the monitored discharge.

At a minimum, upon the effective date of this permit, the constituents listed in the table below shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred. Where additional monitoring requirements or additional water quality-based effluent limitations necessary to ensure that the discharge will not violate applicable water quality standards have been imposed, they will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

Effluent Characteristic	Frequency	Sample Type <i>a/</i>
Flow, MGD <i>c/</i>	<i>b/</i>	Instantaneous
BOD5, mg/L	<i>b/</i>	Grab
Total Suspended Solids, mg/L	<i>b/</i>	Grab
pH, standard units	<i>b/</i>	Instantaneous or Grab
Oil and Grease, Visual Observation	<i>b/</i>	Observation <i>d/</i>
Oil and Grease, mg/L <i>d/</i>	<i>d/</i>	Grab

a/ See Definitions, Part 9, for definition of terms.

b/ A minimum of three (3) samples or measurements shall be taken during any discharge of wastewater unless the discharge lasts only two days or less. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages. If only one (1) sample is collected during the period, it must be considered the same as the average for that period. The permittee always has the option of collecting additional samples if appropriate.

c/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in gallons per day) during the reporting period and the daily maximum flow (maximum volume, in gallons per day, discharged during a 24-hour period) shall be reported. **The date and time of the start and termination of each discharge shall be reported.**

d/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be taken immediately and analyzed in accordance with the requirements of 40 CFR Part 136. If no grab sample was taken during the reporting period because no visible sheen was observed, enter "No grab sample required this reporting period." or something similar on the appropriate line of the discharge monitoring report form.

4.3. Inspection Requirements

4.3.1. On at least a **weekly** basis, unless otherwise approved by the permit issuing authority, the permittee shall inspect its wastewater treatment facility, at a minimum, for the following:

- 4.3.1.1. Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. (Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Parts 4.2 and 6.4.2 of this permit if not already done.);
- 4.3.1.2. Check to see if there is any leakage through the dikes;
- 4.3.1.3. Check to see if there are any animal burrows in the dike;
- 4.3.1.4. Check to see if there has been any excessive erosion of the dikes;
- 4.3.1.5. Check to see if there are any rooted plants, including weeds growing in the water; and
- 4.3.1.6. Check to see if vegetation growth on the dikes needs mowing.
- 4.3.1.7. Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.

4.3.2. The permittee shall maintain a **bound notebook** recording information obtained during the inspection. At a minimum, the notebook shall include the following:

- 4.3.2.1. Date and time of the inspection;
- 4.3.2.2. Name of the inspector(s);
- 4.3.2.3. The facility's discharge status;
- 4.3.2.4. The flow rate of the discharge if occurring;
- 4.3.2.5. Identification of operational problems and/or maintenance problems;
- 4.3.2.6. Recommendations, as appropriate, to remedy identified problems;
- 4.3.2.7. A brief description of any actions taken with regard to problems identified; and,
- 4.3.2.8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe.

4.3.3. Problems identified during the inspection shall be addressed through proper operation and maintenance. (See Part 7.5 of this permit)

4.4. Land Application of Wastewater This permit does not authorize the discharge of wastewater from land application sites. Any land application of wastewater from the wastewater lagoon system shall be done in such a manner as to prevent runoff of wastewater from the land application site from reaching waters of the United States. If the permittee land applies wastewater, it shall be done in accordance with a written operational plan for the land application of the wastewater. If the permittee is already land

applying wastewater when this permit is issued, the operational plan shall be prepared within ninety (90) days after the effective date of this permit or prior to the next land application of wastewater, whichever occurs later. If the permittee is not land applying wastewater when the permittee obtains coverage under this general permit, the operational plan shall be prepared prior to land applying wastewater. A copy of the plan shall be kept at the office of the facility and be made available for inspection by authorized representatives of EPA or the applicable Tribe. For each land application site the plan shall include the following:

- 4.4.1. Identification of the land application site:
 - 4.4.1.1. A topographic map showing the location of the land application site and the surrounding area up to one mile beyond the boundary of the site and the location of the wastewater lagoon system. Also show all springs and surface water bodies within 1 mile of the site boundary, plus all drinking water wells within 1/4 mile of the site boundary which are identified in the public record or otherwise known to you. A photocopy of the appropriate portion of a USGS topographic map(s) may be used, with the locations of the land application site(s), the wastewater lagoon system, and drinking water wells marked on the map.
 - 4.4.1.2. The section, township, and range of the land application site (e.g., South 1/2 NW 1/4 S/E 1/4 Sec. 5, T 7S, R 6E).
 - 4.4.1.3. The area of the land application site in acres.
 - 4.4.1.4. The depth, in feet, to the annual high groundwater level below the land application site. If the distance is shorter in one part of the site than in another part, use the shortest distance.
- 4.4.2. Use of the land application site: Describe briefly the uses of the site (e.g., crop land, pasture land, range land, etc.) and the types of vegetation grown on the site.
- 4.4.3. A brief description of how the wastewater will be conveyed to the site and any on-site storage that will be provided.
- 4.4.4. A brief description of how the wastewater will be land applied and the types of equipment that will be used.
- 4.4.5. A nutrient management plan to ensure that excessive amounts of nitrogen and phosphorus are not applied to the land. The nutrient management plan may be based on guidance provided by the local office of the U.S. Department of Agriculture's Natural Resource Conservation Service, the State's agricultural extension service, the latest edition of EPA's Process Design Manual - Land Treatment of Municipal Wastewater Effluents (EPA 625/R-06/016), or similar references or sources of information.
- 4.4.6. List the months when land application is planned to occur.
- 4.4.7. The planned application rates in terms of gallons per acre per application.
- 4.4.8. The planned length of time that wastewater will be applied per application (e.g., 4 hours per sprinkler setting, etc.)
- 4.4.9. The planned frequency of application (e.g., twice monthly).
- 4.4.10. The planned amount of time between applications (e.g., two weeks).
- 4.4.11. Runoff controls: Provide a brief description of all physical control measures that will be provided to minimize the potential for wastewater to flow off the land application site.

- 4.4.12. Written instructions for the person(s) doing the land application. The instructions shall include the following:
 - 4.4.12.1. Specific information on the amounts of wastewater to be land applied per application, rates of application, duration of application, and length of time between applications.
 - 4.4.12.2. Preventive measures to be taken to minimize the potential for the runoff of wastewater to occur from the site.
 - 4.4.12.3. Action to be taken if runoff of wastewater from the site occurs.
- 4.4.13. A listing of people and agencies to be called in the event that there is a discharge of wastewater from the land application site. The list shall include the appropriate telephone numbers for the people and agencies.

5. CATEGORY 3 - THE LAGOON SYSTEM IS REQUIRED TO HAVE NO DISCHARGE

- 5.1. No Discharge Requirements: Effective immediately and lasting through the life of this permit, there shall be no discharge except in accordance with the bypass provisions of this permit. If an unauthorized release occurs or is expected to occur, the permittee shall take the appropriate measures to minimize the discharge of pollutants.
- 5.2. Monitoring Requirements: If an unauthorized release is discovered or expected to occur, the discharge shall be monitored as shown below:

Effluent Characteristic	Frequency	Sample Type a/
Total Flow, gpm c/	b/	Instantaneous
BOD5, mg/L	b/	Grab
Total Suspended Solids, mg/L	b/	Grab
pH, standard units	b/	Grab
Oil and grease, Visual d/	b/	Observation
Oil and Grease, mg/L d/	d/	Grab

a/ See Definitions, Part 9, for definition of terms.

b/ The discharge shall be monitored three times per week for the first week of discharge (sample taken and flow rate measured), including once as soon as practical after the unauthorized release is discovered or when an expected unauthorized release begins, and at weekly intervals thereafter until the unauthorized release stops. If the discharge lasts less than one week in duration, monitoring shall be performed at the beginning, middle, and end of the discharge event. The permittee shall report the monitoring results using the format on the last page of this permit in accordance with the instructions in Part 6.4.3. A photocopy of the page of Part 10 may be used.

c/ If it is not possible to measure the rate of discharge, the rate of discharge shall be estimated. In addition, the permittee shall monitor the duration and approximate volume of each discharge.

d/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be taken immediately and analyzed in accordance with the requirements of 40 CFR Part 136. If no grab sample was taken because no visible sheen was observed, enter "No Visible sheen observed, so no grab sample required," or something similar when reporting the monitoring data.

5.3. Inspection Requirements

5.3.1. On at least a **weekly** basis, unless otherwise approved by the permit issuing authority, the permittee shall inspect its wastewater treatment facility, at a minimum, for the following:

- 5.3.1.1. Determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. (Note: If a discharge has occurred or is likely to occur before the next inspection, perform the appropriate monitoring and reporting requirements in Parts 5.2 and 6.4.3 of this permit if not already done.);
- 5.3.1.2. Check to see if there is any leakage through the dikes;
- 5.3.1.3. Check to see if there are any animal burrows in the dike;
- 5.3.1.4. Check to see if there has been any excessive erosion of the dikes;
- 5.3.1.5. Check to see if there are any rooted plants, including weeds growing in the water; and
- 5.3.1.6. Check to see if vegetation growth on the dikes needs mowing.

- 5.3.1.7. Determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility.
- 5.3.2. The permittee shall maintain a **bound notebook** recording information obtained during the inspection. At a minimum, the notebook shall include the following:
 - 5.3.2.1. Date and time of the inspection;
 - 5.3.2.2. Name of the inspector(s);
 - 5.3.2.3. The facility's discharge status;
 - 5.3.2.4. The flow rate of the discharge if occurring;
 - 5.3.2.5. Identification of operational problems and/or maintenance problems;
 - 5.3.2.6. Recommendations, as appropriate, to remedy identified problems;
 - 5.3.2.7. A brief description of any actions taken with regard to problems identified; and,
 - 5.3.2.8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the applicable Tribe.

- 5.3.3. Problems identified during the inspection shall be addressed through proper operation and maintenance. (See Part 7.5 of this permit)
- 5.4. Land Application of Wastewater. This permit does not authorize the discharge of wastewater from land application sites. Any land application of wastewater from the wastewater lagoon system shall be done in such a manner as to prevent runoff of wastewater from the land application site from reaching waters of the United States. If the permittee land applies wastewater, it shall be done in accordance with a written operational plan for the land application of the wastewater. If the permittee is already land applying wastewater when this permit is issued, the operational plan shall be prepared within ninety (90) days after the effective date of this permit or prior to the next land application of wastewater, whichever occurs later. If the permittee is not land applying wastewater when the permittee obtains coverage under this general permit, the operational plan shall be prepared prior to land applying wastewater. A copy of the plan shall be kept at the office of the facility and be made available for inspection by authorized representatives of EPA or the applicable Tribe. For each land application site the plan shall include the following:
 - 5.4.1. Identification of the land application site:
 - 5.4.1.1. A topographic map showing the location of the land application site and the surrounding area up to one mile beyond the boundary of the site and the location of the wastewater lagoon system. Also show all springs and surface water bodies within 1 mile of the site boundary, plus all drinking water wells within 1/4 mile of the site boundary which are identified in the public record or otherwise known to you. A photocopy of the appropriate portion of a USGS topographic map(s) may be used, with the locations of the land application site(s), the wastewater lagoon system, and drinking water wells marked on the map.
 - 5.4.1.2. The section, township, and range of the land application site (e.g., South 1/2 NW 1/4 S/E 1/4 Sec. 5, T 7S, R 6E).
 - 5.4.1.3. The area of the land application site in acres.
 - 5.4.1.4. The depth, in feet, to the annual high groundwater level below the land application site. If the distance is shorter in one part of the site than in another part, use the shortest distance.

- 5.4.2. Use of the land application site: Describe briefly the uses of the site (e.g., crop land, pasture land, range land, etc.) and the types of vegetation grown on the site.
- 5.4.3. A brief description of how the wastewater will be conveyed to the site and any on-site storage that will be provided.
- 5.4.4. A brief description of how the wastewater will be land applied and the types of equipment that will be used.
- 5.4.5. A nutrient management plan to ensure that excessive amounts of nitrogen and phosphorus are not applied to the land. The nutrient management plan may be based on guidance provided by the local office of the U.S. Department of Agriculture's Natural Resource Conservation Service, the State's agricultural extension service, the latest edition of EPA's Process Design Manual - Land Treatment of Municipal Wastewater Effluents (EPA 625/R-06/016), or similar references or sources of information.
- 5.4.6. List the months when land application is planned to occur.
- 5.4.7. The planned application rates in terms of gallons per acre per application.
- 5.4.8. The planned length of time that wastewater will be applied per application (e.g., 4 hours per sprinkler setting, etc.)
- 5.4.9. The planned frequency of application (e.g., twice monthly).
- 5.4.10. The planned amount of time between applications (e.g., two weeks).
- 5.4.11. Runoff controls: Provide a brief description of all physical control measures that will be provided to minimize the potential for wastewater to flow off the land application site.
- 5.4.12. Written instructions for the person(s) doing the land application. The instructions shall include the following:
 - 5.4.12.1. Specific information on the amounts of wastewater to be land applied per application, rates of application, duration of application, and length of time between applications.
 - 5.4.12.2. Preventive measures to be taken to minimize the potential for the runoff of wastewater to occur from the site.
 - 5.4.12.3. Action to be taken if runoff of wastewater from the site occurs.
- 5.4.13. A listing of people and agencies to be called in the event that there is a discharge of wastewater from the land application site. The list shall include the appropriate telephone numbers for the people and agencies.

6. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- 6.1. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Parts 3, 4, and 5 shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.
- 6.2. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the permit.
- 6.3. Penalties for Tampering. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or both. Second conviction is punishable by a fine of not more than \$20,000 or by imprisonment of not more than four years, or both.
- 6.4. Reporting of Monitoring Results.
 - 6.4.1. Reporting of Effluent Monitoring Results for Category 1 (Part 3) Facilities. Effluent monitoring results obtained during the previous **month** shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. A copy of the laboratory reports for whole effluent toxicity testing shall be submitted along with the DMR for that reporting period. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 8.7), and submitted to the Planning and Targeting Program and the applicable Tribe at the addresses given in Part 6.4.4 below.
 - 6.4.2. Reporting of Effluent Monitoring Results for Category 2 (Part 4) Facilities. Effluent monitoring results obtained during the previous **calendar quarter** (Jan-Mar, Apr-June, July-Sep, Oct-Dec) shall be summarized and reported on **one** Discharge Monitoring Report (DMR) Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. A copy of the laboratory reports for whole effluent toxicity testing shall be submitted along with the DMR for that reporting period. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 8.7), and submitted to the Planning and Targeting Program and the specified Tribe (EPA MOO) at the addresses given in Part 6.4.4 below.
 - 6.4.3. Reporting of Effluent Monitoring Results for Category 3 (Part 5) Facilities. Effluent monitoring results obtained during the duration of each discharge shall be summarized in **the format of Part 10 of this permit or on a photocopy of that page of this permit**, postmarked no later than the 28th day of the month following the beginning of the unauthorized release. If the discharge continues into the next month, monitoring results shall be reported monthly until the discharge is terminated. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part 8.7), and submitted to the EPA Region 8 Policy, Information Management & Environmental Justice Program and the specified Tribe at the addresses given in Part 6.4.4 below.

6.4.4. Addresses for Reporting Effluent Monitoring Results

Original to: U.S. EPA, Region 8
Policy, Information Management & Environmental Justice Program (8ENF-PJ)
Attention: Director
1595 Wynkoop Street
Denver, Colorado 80202-1129

Copy to: Applicable Tribe (see Part 11 for list of Tribes)

6.5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 and 40 CFR Part 503, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.

6.6. Records Contents. Records of monitoring information shall include:

- 6.6.1 The date, exact place, and time of sampling or measurements;
- 6.6.2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
- 6.6.3. The date(s) analyses were performed;
- 6.6.4. The time(s) analyses were initiated;
- 6.6.5. The initials or name(s) of individual(s) who performed the analyses;
- 6.6.6. References and written procedures, when available, for the analytical techniques or methods used; and,
- 6.6.7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

6.7. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of DMRs, and a copy of this NPDES permit must be maintained on site.

6.8. Twenty-four Hour Notice of Noncompliance Reporting.

6.8.1. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region 8, Preparedness, Assessment and Response Program at (303) 293-1788 and the applicable Tribe (see Part 11 for list of Tribes and telephone numbers).

6.8.2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region 8, NPDES Enforcement Unit at (800) 227-8917 (8:00 a.m. - 4:30 p.m. Mountain Time) and the applicable Tribe (see Part 11 for list of Tribes and telephone numbers) (8:00 a.m. - 4:30 p.m. local time) by the first workday following the day the permittee became aware of the circumstances:

6.8.2.1. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part 7.7, Bypass of Treatment Facilities.);

6.8.2.2. Any unauthorized release;

- 6.8.2.3. Any upset which exceeds any effluent limitation in the permit (See Part 7.8. Upset Conditions.); or,
- 6.8.2.4. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
- 6.8.3. A written submission shall also be provided to the EPA and to the applicable Tribe within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - 6.8.3.1. A description of the noncompliance and its cause;
 - 6.8.3.2. The period of noncompliance, including exact dates and times;
 - 6.8.3.3. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - 6.8.3.4. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The written submission shall be submitted to the following addresses:

Original to: U.S. EPA, Region 8
Policy, Information Management & Environmental Justice Program (8ENF-PJ)
Attention: Director
1595 Wynkoop Street
Denver, Colorado 80202-1129

Copy to: Applicable Tribe (see Part 11 for list of Tribes)

- 6.8.4. The Director may waive the written report on a case-by-case basis for an occurrence of noncompliance listed under Part 6.8.2 above, if the incident has been orally reported in accordance with the requirements of Part 6.8.2.
- 6.9. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part 6.4 are submitted. The reports shall contain the information listed in Part 6.8.3.
- 6.10. Inspection and Entry. The permittee shall allow the Regional Administrator or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:
 - 6.10.1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - 6.10.2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - 6.10.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
 - 6.10.4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

7. COMPLIANCE RESPONSIBILITIES

- 7.1. Duty to Comply. The permittee must comply with all conditions of this permit. Any failure to comply with the permit may constitute a violation of the Clean Water Act and may be grounds for enforcement action, including, but not limited to permit termination, revocation and reissuance, modification, or denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility that will change any discharge from the facility, or of any activity that may result in failure to comply with permit conditions.
- 7.2. Penalties for Violations of Permit Conditions. The Clean Water Act provides for specified civil and criminal monetary penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the civil monetary penalties for inflation on a periodic basis. EPA previously adjusted its civil monetary penalties on December 31, 1996 (61 Fed. Reg. 69359-69365), with technical corrections and additions published on March 20, 1997 (62 Fed. Reg. 13514-13517), June 27, 1997 (62 Fed. Reg. 35037-35041) and February 13, 2004 (69 Fed. Reg. 7121-7127). On December 11, 2008 (73 Fed. Reg. 75340-75346) EPA once again adjusted its civil monetary penalties. The civil and criminal penalties, as of January 12, 2009, for violations of the Act (including permit conditions) are given below:
- 7.2.1. Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$37,500 per day for each violation.
- 7.2.2. Any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment for not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both.
- 7.2.3. Any person who knowingly violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment for not more than 6 years, or both.
- 7.2.4. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment for not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment for not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- 7.2.5. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Where an administrative enforcement action is brought for a Class I civil penalty, the assessed penalty may not exceed \$16,000 per violation, with a maximum amount not to exceed \$37,500. Where an administrative enforcement action is brought for a Class II civil penalty, the assessed penalty may not exceed \$16,000 per day for each day during which the violation continues, with the maximum amount not to exceed \$177,500.
- 7.3. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- 7.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- 7.5. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, at a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

In addition to the operation and maintenance items in the manual for the lagoon system, the permittee shall do the following maintenance:

- 7.5.1. Take necessary action to promptly correct the problem of leakage through the dikes;
- 7.5.2. Take necessary action to promptly remove burrowing animals from the dikes;
- 7.5.3. Promptly repair damage to dikes caused by burrowing animals and/or erosion;
- 7.5.4. Remove rooted plants, including weeds, from the water on a regular basis or as needed; and
- 7.5.5. Keep the dikes mowed on a regular basis during the growing season or as needed (e.g., keep growth below 6" in height).
- 7.6. Removed Substances. Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal and tribal regulations (i.e., 40 CFR Parts 257, 258, and 503) and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard. In addition, the use and/or disposal of sewage sludge shall be done under the authorization of an NPDES permit issued for the use and/or disposal of sewage sludge by the appropriate NPDES permitting authority for sewage sludge. Sludge digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.
- 7.7. Bypass of Treatment Facilities.
- 7.7.1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts 7.7.2 and 7.7.3.
- 7.7.2. Notice:

- 7.7.2.1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the EPA Region 8 Technical Enforcement Program and to the applicable Tribe (see Part 6.8.3 for addresses).
- 7.7.2.2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part 6.8, Twenty-four Hour Notice of Noncompliance Reporting, to the EPA Region 8 Technical Enforcement Program and to the applicable Tribe.
- 7.7.3. Prohibition of bypass.
 - 7.7.3.1. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
 - 7.7.3.1.1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 7.7.3.1.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - 7.7.3.1.3. The permittee submitted notices as required under Part 7.7.2.
 - 7.7.3.2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 7.7.3.1.

7.8. Upset Conditions

- 7.8.1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part 7.8.2 are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).
- 7.8.2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 7.8.2.1. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - 7.8.2.2. The permitted facility was at the time being properly operated;
 - 7.8.2.3. The permittee submitted notice of the upset as required under Part 6.8, Twenty-four Hour Notice of Noncompliance Reporting; and,
 - 7.8.2.4. The permittee complied with any remedial measures required under Part 7.4, Duty to Mitigate.
- 7.8.3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

7.9. Industrial Waste Management (Minor POTWs in Indian country)

- 7.9.1. The Permittee has the responsibility to protect the Publicly Owned Treatment Works (POTW) from pollutants which would inhibit, interfere, or otherwise be incompatible with operation of the treatment works including interference with the use or disposal of municipal sludge.
- 7.9.2. Pretreatment Standards (40 CFR § 403.5) developed pursuant to Section 307 of the Federal Clean Water Act (the Act) require that the Permittee shall not allow, under any circumstances, the introduction of the following pollutants to the POTW from any source of nondomestic discharge:
 - 7.9.2.1. Any other pollutant which may cause Pass Through or Interference.
 - 7.9.2.2. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR § 261.21;
 - 7.9.2.3. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH of lower than 5.0 s.u., unless the treatment facilities are specifically designed to accommodate such discharges;
 - 7.9.2.4. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
 - 7.9.2.5. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with any treatment process at the POTW;
 - 7.9.2.6. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
 - 7.9.2.7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
 - 7.9.2.8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - 7.9.2.9. Any trucked or hauled pollutants, except at discharge points designated by the POTW; and
 - 7.9.2.10. Any specific pollutant which exceeds a local limitation established by the Permittee in accordance with the requirements of 40 CFR §§ 403.5(c) and (d).
- 7.9.3. For the POTWs covered by this permit, EPA presently is the Approval Authority for the Pretreatment Program and the mailing address for all reporting and notifications to the Approval Authority shall be: Office of Enforcement, Compliance, and Environmental Justice - Water (8ENF-PJ), USEPA - Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- 7.9.4. In addition to the general limitations expressed above, more specific Pretreatment Standards have been and will be promulgated for specific industrial categories under Section 307 of the Act (40 CFR Part 405 et. seq.).
- 7.9.5. The Permittee must notify the Approval Authority of any new introductions by new or existing industrial users or any substantial change in pollutants from any industrial user within sixty (60) days following the introduction or change. Such notice must identify:

- 7.9.5.1. Any new introduction of pollutants into the POTW from an industrial user which would be subject to Sections 301, 306, or 307 of the Act if it were directly discharging those pollutants; or
- 7.9.5.2. Any substantial change in the volume or character of pollutants being introduced into the POTW by any industrial user;
- 7.9.5.3. For the purposes of this section, adequate notice shall include information on:
 - 7.9.5.3.1. The identity of the industrial user;
 - 7.9.5.3.2. The nature and concentration of pollutants in the discharge and the average and maximum flow of the discharge to be introduced into the POTW; and
 - 7.9.5.3.3. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from or biosolids or sludge produced at such POTW.
- 7.9.5.4. For the purposes of this section, an industrial user shall include:
 - 7.9.5.4.1. Any discharger subject to Categorical Pretreatment Standards under Section 307 of the Act and 40 CFR chapter I and subchapter N;
 - 7.9.5.4.2. Any discharger, which has a process wastewater flow of 25,000 gallons or more per day;
 - 7.9.5.4.3. Any discharger contributing five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
 - 7.9.5.4.4. Any discharger who is designated by the Approval Authority as having a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirements;
- 7.9.6. At such time as a specific Pretreatment Standard or requirement becomes applicable to an industrial user of the Permittee, the Approval Authority may, as appropriate:
 - 7.9.6.1. Amend the Permittee's NPDES discharge permit to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national Pretreatment Standards;
 - 7.9.6.2. Require the Permittee to specify, by ordinance, order, or other enforceable means, the type of pollutant(s) and the maximum amount which may be discharged to the Permittee's POTW for treatment. Such requirement shall be imposed in a manner consistent with the program development requirements of the General Pretreatment Regulations at 40 CFR Part 403; and/or,
 - 7.9.6.3. Require the Permittee to monitor its discharge for any pollutant which may likely be discharged from the Permittee's POTW, should the industrial user fail to properly pretreat its waste.
- 7.9.7. The Approval Authority retains, at all times, the right to take legal action against any source of non-domestic discharge, whether directly or indirectly controlled by the Permittee, for violations of a permit, order or similar enforceable mechanism issued by the Permittee, violations of any Pretreatment Standard or requirement, or for failure to discharge at an acceptable level under national standards issued by EPA under 40 CFR, chapter I, subchapter N. In those cases where a NPDES permit violation has occurred because of the failure of the Permittee to properly develop and enforce Pretreatment Standards and requirements as necessary to protect the POTW, the Approval Authority shall hold the Permittee and/or industrial user responsible and may take legal action against the Permittee as well as the Industrial user(s) contributing to the permit violation.

8. GENERAL REQUIREMENTS

- 8.1. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
- 8.1.1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or,
 - 8.1.2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation.
 - 8.1.3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- 8.2. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- 8.3. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- 8.4. Continuation of the Expired General Permit. This permit expires five years after the effective date. However, an expired general permit may continue in force and effect. If a permittee wants to retain coverage under the continued permit until a new general permit is issued, the permittee must submit a letter containing the following to EPA, and a copy to the applicable Tribe, at the addresses given below:
- 8.4.1. Name, address, and telephone number of the operator of the facility;
 - 8.4.2. The existing permit number for the facility; and,
 - 8.4.3. A request that the facility be provided coverage under the continued permit until a new general permit is issued.

The letter must be signed in accordance with Part 8.7, Signatory Requirements, and mailed to the following address no later than thirty (30) days before the expiration date of the permit:

U.S. EPA, Region 8
Wastewater Unit (8P-W-WW)
1595 W. Wakoop Street
Denver, CO 80202-1129

copy to: applicable Tribe (see Part 11 for list of Tribes)

- 8.5. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- 8.6. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.

- 8.7. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
- 8.7.1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
- 8.7.2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- 8.7.2.1. The authorization is made in writing by a person described above and submitted to the Director; and,
- 8.7.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- 8.7.3. Changes to authorization. If an authorization under Part 8.7.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part 8.7.2 must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 8.7.4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Typed or Printed Name: _____

Signature _____

Title: _____ Date _____

- 8.8. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- 8.9. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- 8.10. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

- 8.11. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, tribal or local laws or regulations.
- 8.12. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- 8.13. Transfers. This permit may be automatically transferred to a new permittee if:
 - 8.13.1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
 - 8.13.2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 - 8.13.3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part 8.13.2 above.
- 8.14. Permittees in Indian Country. EPA is issuing this permit pursuant to the Agency's authority to implement the Clean Water Act NPDES program in Indian country, as defined at 18 U.S.C. §1151.
- 8.15. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:
 - 8.15.1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 - 8.15.2. Wasteload Allocation: A wasteload allocation is developed and approved by the applicable Tribe and/or EPA for incorporation in this permit.
 - 8.15.3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
 - 8.15.4. Sewage Sludge: There have been substantial changes (or such changes are planned) in sludge use or disposal practices; applicable management practices or numerical limitations for pollutants in sludge have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittee's sludge use or disposal practices do not comply with existing applicable state, tribal or federal regulations.
- 8.16. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.
- 8.17. Requiring an individual permit or an alternative general permit.
 - 8.17.1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this part. Where the Director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the discharger in writing that a permit application is required. This notification shall include a

brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the address given in Part 2.3 of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Director under this part, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

- 8.17.2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.21, with reasons supporting the request, to the Director at the address given in Part 2.3 of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
- 8.17.3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

9. Definitions.

- 9.1. "The Act" means the Clean Water Act (CWA) or the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.
- 9.2. "Approval Authority" means the Director in an NPDES State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program
- 9.3. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- 9.4. "Composite samples" shall be flow proportioned. The composite sample shall, at a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - 9.4.1. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - 9.4.2. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - 9.4.3. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - 9.4.4. Continuous collection of sample, with sample collection rate proportional to flow rate.
- 9.5. "Daily Maximum" ("Daily Max.") is the highest allowable discharge during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of pollutants discharged over the calendar day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the calendar day. If only one measurement or sample is taken during the calendar day, that will be considered the average for the calendar day.
- 9.6. "Director" means the Regional Administrator of EPA Region 8 or an authorized representative.
- 9.7. "EPA" means the United States Environmental Protection Agency.
- 9.8. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
- 9.9. "Indian country" is defined as in 18 U.S.C. § 1151 to mean (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running throughout the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same.
- 9.10. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.

- 9.11. The "7-day (and weekly) average", other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
- 9.12. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 9.13. "Sewage sludge" is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
- 9.14. The "30-day (and monthly) average", other than for microbiological organisms (e.g., bacteria, viruses, etc.), is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for microbiological organisms unless specified otherwise in the permit. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
- 9.15. "Unauthorized Releases" mean the discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes when the permit requires "no discharge" (Category 3). For Category 3 facilities, an unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to the wastewater entering the wastewater lagoon system.
- 9.16. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 9.17. "Wastewater lagoon system" means waste stabilization pond(s), oxidation pond(s), facultative pond(s), aerated pond(s), aerobic or anaerobic pond(s), or similar treatment system.

10. FORMAT FOR REPORTING EFFLUENT MONITORING DATA FOR UNAUTHORIZED RELEASES

Permittee Name: _____

NPDES Permit No.: _____

Mailing Address: _____

Name of Facility Contact: _____ Phone: _____

When discharge started or discovered: _____ (time, date)

End of Discharge: _____ (time, date)

Time & date 24-Hour Notice of Noncompliance given to EPA & Tribe

Describe Location of Discharge (use attachment if insufficient space)

ANALYTICAL RESULTS

	Sample No. 1	Sample No. 2	Sample No. 3	Sample No. 4
Date of Sample				
Time of Sample				
Flow while Sampling, gpm				
BOD ₅ , mg/L				
TSS, mg/L				
pH, s.u.				
Oil and Grease, Visual				
Oil and Grease, mg/L				

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein based on my inquiry of those individual(s) directly responsible for obtaining the information. The information submitted is, to the best of my knowledge, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Typed or Printed Name: _____

Signature _____ Date _____

Title _____

II. LIST OF ENVIRONMENTAL COORDINATORS FOR APPLICABLE TRIBES IN SOUTH DAKOTA

<p>Cheyenne River Reservation Cheyenne River Sioux Tribe</p>	<p>Crow Creek Reservation Crow Creek Sioux Tribe</p>
<p>Director, Environmental Protection Department Cheyenne River Sioux Tribe of the Cheyenne River Reservation P.O. Box 590 Eagle Butte, SD 57625 (605) 964-6558 Ext. 22</p>	<p>Environmental Director Crow Creek Sioux Tribe of the Crow Creek Reservation P.O. Box 380 Fort Thompson, SD 57339 (605) 245-2212 or 2736</p>
<p>Flandreau Santee Sioux Indian Reservation Flandreau Santee Sioux Tribe of South Dakota</p>	<p>Sisseton-Wahpeton Oyate of the Lake Traverse Reservation</p>
<p>Natural Resources Director Flandreau Santee Sioux Tribe of South Dakota P.O. Box 283 Flandreau, SD 57028 (605) 997-5123</p>	<p>Office Administrator Sisseton-Wahpeton Oyate of the Lake Traverse Reservation P.O. Box 509 Agency Village, SD 57262-0509 (605) 698-4998 / 800-338-3180</p>
<p>Lower Brule Reservation Lower Brule Sioux Tribe</p>	<p>Pine Ridge Reservation Oglala Sioux Tribe</p>
<p>Environmental Coordinator Lower Brule Sioux Tribe of the Lower Brule Reservation 1870 Oyate Circle Lower Brule, SD 57548 (605) 473-0163</p>	<p>Environmental Director Oglala Sioux Tribe of the Pine Ridge Reservation P.O. Box 2008 Pine Ridge, SD 57770 (605) 867-5236 or 5736 or 5476</p>
<p>Rosebud Indian Reservation Rosebud Sioux Tribe</p>	<p>Yankton Sioux Reservation Yankton Sioux Tribe of South Dakota</p>
<p>Director, Office of Water Resources Rosebud Sioux Tribe of the Rosebud Indian Reservation P.O. Box 430 Rosebud, SD 57570 (605) 747-2559</p>	<p>Director, Environmental Protection Program Yankton Sioux Tribe of South Dakota P.O. Box 248 Marty, SD 57361 (605) 384-3641</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

MAY 19 2011

Ref: 8P-W-WW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sandra Lemke, Acting Mayor
City of Dupree
P.O. Box 276
Dupree, South Dakota 57623

Re: Authorization of Coverage under General
National Pollutant Discharge Elimination
System (NPDES) Permit: SDG-589116

Dear Ms. Lemke:

The U.S. Environmental Protection Agency (EPA), Region 8, has reviewed your Notice of Intent for the City of Dupree, South Dakota Wastewater Treatment Facility, received May 10, 2011, to be covered under the EPA Region 8 NPDES General Permit for Wastewater Lagoons in Indian country, NPDES Permit No. SDG-589###. The information that you provided meets the application requirements for coverage under this general permit. The facility has been assigned permit number **SDG-589116**. Your coverage under this general permit, a copy of which has also been enclosed, is effective as of the date of this letter.

The facility is authorized for discharge under **Category 3 ("No Discharge")** of the general permit. The permit conditions for the facility, along with a summary of Category 3 discharge limitations and monitoring requirements, are contained in **Part 5, page 19** of the general permit. In addition, the report form for unauthorized releases is provided in **Part 10, page 36** of the permit. For all other requirements, please refer to the general permit.

For Category 3 facilities, **no discharge is authorized** under the permit, and there are no regular reporting requirements, except when discharges occur under emergency conditions. In the event of an emergency discharge, please use the reporting form that has been provided.

COMPLAINANT'S
EXHIBIT NO. 2

If you have any questions, please contact Gail Franklin of the Region 8 Wastewater Unit at (303) 312-6497.

Sincerely,

A handwritten signature in cursive script that reads "Colleen R.L. Gillespie".

Colleen R.L. Gillespie, Chief
Wastewater Unit

Enclosure

cc: with Enclosure

David D. Nelson, Environmental Director
Cheyenne River Reservation
P.O. Box 590
Eagle Butte, SD 57625-0590

CHAIRMAN
Kevin C. Keckler

SECRETARY
Ev Ann White Feather

TREASURER
Benita Clark

VICE-CHAIRMAN
Ted Kniffa, Jr.



P.O. Box 590
Eagle Butte, South Dakota 57625
Phone: (605) 964-4155
Fax: (605) 964-4151

TRIBAL COUNCIL MEMBERS

DISTRICT 1
Ardys Cook
Bryce In The Woods

DISTRICT 2
Ted Knife, Jr.

DISTRICT 3
Maynard Dupris
Edward Widow

DISTRICT 4
Todd Ward
Merrie Miller
Frank Thompson
Sharon Lee

DISTRICT 5
Robert Walters
Robin Le Beau
Raymond Uses the Knife, Jr.
Ryman LeBeau

DISTRICT 6
De Anna Le Beau
Dixie LaCompte

April 18, 2011

U.S. EPA, Region 8
Policy, Information Management & Environmental Justice Program (8ENF-PJ)
Attention: Director
1595 Wynkoop Street
Denver, CO 80202-1129

To Whom It May Concern:

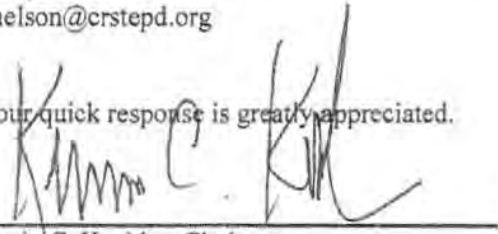
It has been brought to the attention of the Cheyenne River Sioux Tribe (CRST) who has entered into agreement with the United States Environmental Protection Agency (EPA) for a permit allowing the operations of wastewater treatment lagoons, that the City of Dupree, South Dakota, has allowed a LIFT STATION TO SPILL UNTREATED WASTE into Bear Creek (lift station just north of Highway 212 and Main St. in Dupree). This lift station discharge has been occurring for several months at the least and maybe as long as last summer without any official notification.

The CRST would like the EPA to notify the City of Dupree that they are in violation of the permit and need to act immediately to fix the problem.

Should you have any further questions please do not hesitate to contact myself at (605) 964-4155 or:

David Nelson, Director
CRST Environmental Protection Department
(605) 964-6559
dnelson@crstepd.org

Your quick response is greatly appreciated.


Kevin C. Keckler, Chairman
Cheyenne River Sioux Tribe

The blue represent the thunder clouds above the world where live the thunder birds who control the four winds. The rainbow is for the Cheyenne River Sioux people who are keepers of the Most Sacred Calf Pipe, a gift from the White Buffalo Calf Maiden. The eagle feathers at the edges of the rim of the world represent the spotted eagle who is the protector of all Lakota. The two pipes fused together are for unity. One pipe is for the Lakota, the other for the all the other Indian Nations. The yellow hoops represent the Sacred Hoop, which shall not be broken. The Sacred Calf Pipe Bundle in red represents Wakan Tanka - The Great Mystery. All the colors of the Lakota are visible. The red, yellow, black and white represent the four major races. The blue is for heaven and the green for Mother Earth.

COMPLAINANT'S
EXHIBIT NO. 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: ENF-W-NP

May 20, 2011

Ms. Sandra Lemke, Acting Mayor
City of Dupree
PO Box 276
Dupree, SD 57623

Dear Ms. Lemke,

The city of Dupree submitted a request for discharge on May 18, 2011. The wastewater treatment facility operates under the NPDES Permit SDG589116 as a non discharging facility as stated in Part 5.1 of the permit. Based on monitoring results collected April 20, 2011, the BOD₅ exceeds the limits of 30mg/L (30 day average) and 45mg/L (7 day average). The TSS, and pH analyses show that these parameters were in compliance with the permit effluent limitations. As discussed with Ian Pistulk, the lagoon operator, the BOD₅ analysis was high most likely due to the lack of oxygen needed for the system to break down wastewater, from the lagoons being covered in ice and snow during the winter season. The EPA cannot approve a discharge from the facility due to the reasons listed above, but does understand that discharge needs to occur in order to prevent damage to the facility.

Discharge must be undertaken in full compliance with NPDES permit SDG589116, including all stipulations listed in Section 5.2 (Monitoring Requirements). Section 5.2 states that during the period of discharge three effluent samples, captured from the discharge point, at the beginning, middle and end of the discharge, measuring for BOD₅, TSS, and instantaneous pH. Average and daily maximum flow rate must also be reported. Monitoring results shall be reported using the format on page 36 of the permit.

If you should have any questions please call me at (303) 312-6225.

Sincerely,

A handwritten signature in blue ink, appearing to read "Natasha Davis".

Natasha Davis
NPDES Enforcement Unit
USEPA Region 8

COMPLAINANT'S
EXHIBIT NO. 4